

**REAL ESTATE BOARD  
MINUTES  
MARCH 25, 2004**

**PRESENT:** Richard Hinsman, Richard A. Kollmansberger, Peter Sveum, and Maria E. Watts

**EXCUSED:** Rebecca J. Dysland and Lloyd Levin

**STAFF PRESENT:** Patricia Hoeft, Division Administrator of Board Services, William Black, Legal Counsel, Pat Schenck, Program Assistant, and Division of Enforcement Staff

**GUESTS:** Rick Staff, Wisconsin Realtors Association (WRA)

**CALL TO ORDER**

Richard Kollmansberger, Chair, called the meeting to order at 10:13 a.m. A quorum of four members was present.

**ADOPTION OF AGENDA**

**Additions to agenda:**

- Add 01 REB 281 Administrative Warning under Item 11. c. vi.

**MOTION:** Richard Hinsman, moved, seconded by Maria Watts, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES JANUARY 22, 2004**

**MOTION:** Peter Svem moved, seconded by Richard Hinsman, to approve the minutes of January 22, 2004 as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT - PATRICIA HOEFT, DIVISION ADMINISTRATOR**

Address change for Peter Sveum: 1200 Nygaard St., PO Box 516, Stoughton, WI 53589

**BOARD ROSTER**

Noted.

**2004 BOARD MEETING DATES**

Noted.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES,  
ADMINISTRATIVE RULES AND LEGISLATION**

Noted.

**CHANGES TO ADMINISTRATIVE RULE MAKING PROCEDURES  
2003 WISCONSIN ACT 118**

Ms. Hoeft reported on the new “Changes to Administrative Rule-Making Procedures Required in 2003 Wisconsin Act 118.” These changes will require more research regarding rule-making procedures.

**PREPARE REGULATORY DIGEST JUNE/JULY ISSUE**

Ms. Hoeft reported that a regulatory digest newsletter would be published for the Real Estate Board in June or July and requested articles and issues from the Board for publication. The following is a list of articles and issues the Board would like to see published in the newsletter:

- Adherence to the dates in the contracts.
- Brokers keeping or not keeping part of the earnest money.
- Brokers explaining enough to the buyers, specifically letting the buyer know they have an opportunity to do a walk through prior to closing on property.
- Cash offers, obligations.
- Case what constitutes the protection of a name as it applies to a listing contract.
- Override provision. General topic for discussion to be discussed later.
- Violation of code of ethics, who has control of ethics involved in cases?
- Duties to explain errors in a contract, RL 16.05, legal advice
- Regulations do not indicate that a real estate broker has to read anything to a client explaining a walk through prior to closing on property.
- How far should a broker go in explaining a form?
- How much of the contract must be explained to a client?
- Renewals. Update licensees ahead of time.
- Continuing education.
- Issues such as material defects, well problems, and water test, bad water, clear up internally prior to publishing it.
- Well tests should be performed
- Material significance should be defined more clearly; every person has a different interpretation of it.
- Try a firmer approach in getting people to respond to complaints.
- Adverse tax issues that affect their license.
- A list of reminders that RE should be aware, trust account issues, state income tax, not paid they can lose their license.
- A thank you to Clate Hanson for all the years of service that he has served the Department and the Board.
- Put on the Departments website.

**DIVISIONS OF BOARD SERVICES AND ENFORCEMENT PRESENTATION ABOUT  
IMPROVEMENTS AND NEW DRL WEBSITE [HTTP://DRL.WL.GOV](http://drl.wl.gov)**

The presentation was postponed to the May 27, 2004 Board meeting.

**EDUCATION AND EXAMINATIONS  
REPORT OF THE REAL ESTATE CURRICULUM AND EXAMINATIONS COUNCIL**

Ms. Hoeft reported that the Council on Real Estate Curriculum and Examinations would be meeting on April 13, 2004 to discuss procedures for continuing education curriculum, test out development, and additions to continuing education courses. Dr. Barbara Showers reported on the two-year cycle of getting courses and test out examinations prepared. On even number of years, the Council sets the curriculum topics. The Council will discuss general ideas of the topics of courses, find someone to develop the courses, and then meet to review and approve, suggest, agree, or make changes to what has been proposed.

Dr. Showers suggested that the Board appoint a representative from the Board to the Council.

**MOTION:** Maria Watts, moved, seconded by Richard Hinsman, that Peter Sveum represent the Real Estate Board on the Real Estate Curriculum and Examination Council. Motion carried unanimously.

**LEGISLATION  
PROPERTY FLIPPING UPDATE**

Work on the draft bill to prevent property flipping will start some time later this year. Part of the problem affects people who do rehabilitation work and are able to sell a rehabilitated property for a profit but are falsely identified as being engaged in property flipping. The issue needs to be resolved and the Board should be involved in this discussion. Peter Sveum will represent the Board in any future meetings on this issue.

In an unrelated matter, the Board discussed problems stemming from the transfer form and how the form identifies how to separate the price of personal property from the purchase price of the home and how taxes are set.

**STATUS OF REAL ESTATE RECIPROCITY LICENSURE BILL LRB-3972/1**

2003 Senate Bill 369 is ready to be signed. The Board will need to discuss the parameters necessary for public protection that should be included in reciprocal agreements. Agreements may have to be completed on a state-by-state basis.

**UNAUTHORIZED PRACTICE OF LAW**

William Black reported on the status of the State Bar's petition filed with the Supreme Court. To ask the Court to appoint a commission to consider drafting new agency rules to define the unauthorized practice of law and explore the creation of a state agency in the State Bar to enforce

the rule and enforced against non-lawyers. Funding of the commission is one question under consideration. A hearing was held last week. The Department would like to have input on behalf of affected Boards such as the Real Estate Board, Architects Board. The Supreme Court is expected to give feedback from the hearing that took place in mid-March.

### **NEW CHANGES TO DRL BLUE LICENSE FORMAT**

Starting April 1, the blue renewal license form and the temporary license form will be changed to be the bottom third of a full-size sheet of paper. It will have horizontal and vertical perforations to remove it from the rest of the sheet. While the sizing will be a bit different for the bigger part of the license, it will be quite close in shape to what we currently have and the wallet card will be the same size. Advantages are:

1. licenses can be printed from regular laser printers;
2. several security features in the paper the Department is purchasing, including the watermark on the back and some invisible fibers;
3. ability to print one mailing address at the top of the form and a different physical address on the actual license (This is great for establishments that cannot receive mail at the actual location); and
4. additional sequence numbering allowed above the mailing address, which will help in the machine inserting process at DOA at renewal time.

### **PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT**

- i. Donald J. Moore D/B/A Moore Appraisal & Realty Services

### **PUBLIC COMMENTS**

Rick Staff, Wisconsin Realtors' Association, suggested that the proposed rule for supervision is brought before the Board. Mr. Staff reported that there is a strong legal component that would require all licensees to complete continuing education in any part of the biennium. Mr. Staff stated that he is getting concerns from many licensees who have the perception that they are being coerced into stipulations and cannot disagree with a stipulation because they may face greater discipline. Mr. Staff proposes that the department consider meeting with the WRA to explore whether this is a problem and if improvements are needed.

### **CLOSED SESSION**

**MOTION:** Peter Sveum moved, seconded by Richard Hinsman, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; to consider licensure or discipline (s. 19.85(1) (b), Stats.; to consider individual histories or disciplinary data (s. 19.85(1) (f), Stats.; and, to confer with legal counsel (s. 19.85(1) (g), Stats. to consider case closings, monitoring reports, deliberation on cases proposed to be closed by administrative warning. Motion carried by roll call vote. Richard Hinsman-yes, Richard A. Kollmansberger-yes, Peter Sveum-yes, - Maria Watts - yes.

Open session recessed at 11:20 a.m.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to reconvene into Open Session at 11:47 a.m. Motion carried unanimously.

### **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION**

### **MONITORING REPORT**

None.

### **CASE CLOSINGS**

**MOTION:** Richard Hinsman moved, seconded by Maria Watts, to close the following cases: Motion carried unanimously.

- 01 REB 121** no violation Steve Peterson.
- 01 REB 121** for prosecutorial discretion (P1) Affiliated-Southeast LLC.
- 01 REB 121** for prosecutorial discretion (P5) John Fitzgerald.
- 02 REB 109** for lack of jurisdiction (L1).
- 02 REB 214** no violation.
- 02 REB 049** for prosecutorial discretion (P2).
- 02 REB 010** no violation.
- 02 REB 051** for prosecutorial discretion (P7).
- 02 REB 016** no violation.
- 03 REB 032** no violation.
- 01 REB 123** for prosecutorial discretion (P5).
- 03 REB 055** for prosecutorial discretion (P5).
- 00 REB 057** for prosecutorial discretion (P3).
- 00 REB 145** for prosecutorial discretion (P5).
- 01 REB 160** for insufficient evidence (IE).
- 01 REB 161** for insufficient evidence (IE).
- 01 REB 281** for prosecutorial discretion (P1) Skogg and the Skogg Company.
- 01 REB 324** for insufficient evidence (IE).
- 02 REB 246** no violation.
- 03 REB 156** for prosecutorial discretion (P5).

### **ADMINISTRATIVE WARNINGS**

#### **01 REB 281 JOHN R. METTNER**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to accept the administrative warning as written for case **01 REB 281 John R. Mettner**. Motion carried unanimously.

**01 REB 121 VICKIE K. KELSALL**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to accept the administrative warning as written for case **01 REB 121 Vickie K. Kelsall**. Motion carried unanimously.

**02 REB 108 BRIAN J. MCINTYRE**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to accept the administrative warning as written for case **02 REB 108 Brian J. McIntyre**. Motion carried unanimously.

**01 REB 273 RANDY J. SILHA & COUNTRY REALTY INC**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to accept the administrative warning as written for case **01 REB 273 Randy J. Silha & Country Realty Inc**. Motion carried unanimously.

**03 REB 030 GARY J. TRITZ**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to accept the administrative warning as written for case **03 REB 030 Gary J. Tritz**. Motion carried unanimously.

**03 REB 030 RICK L. NORTH**

**MOTION:** Richard Hinsman moved, seconded by Peter Sveum, to accept the administrative warning as written for case **03 REB 030 Rick L. North**. Motion carried unanimously.

**STIPULATION**

**DONALD J. MOORE D/B/A MOORE APPRAISAL & REALTY SERVICES 03 REB 176**

**MOTION:** Peter Sveum moved, seconded by Maria Watts, to adopt the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter concerning **Donald J. Moore d/b/a Moore Appraisal & Realty Services 03 REB 176**. Motion carried unanimously.

**PROPOSED DECISION**

**HELEN R. PATANAUDE LS0306042REB**

**MOTION:** Richard Hinsmann moved, seconded by Maria Watts, to adopt the Proposed Decision in the matter of disciplinary proceedings against Helen R. Patenaude **LS0306042REB**. Motion carried unanimously.

**PROPOSED ORDER FIXING COST**

**MEREDITH SCHOEN LS0302171REB**

**MOTION:** Maria Watts moved, seconded by Peter Sveum, to adopt the Order Fixing Costs in the matter concerning **Meredith Schoen LS0302171REB**.  
Motion carried unanimously.

**SUCH OTHER ITEMS AS AUTHORIZED BY LAW**

The Board was concerned about Mr. Staff's concerns regarding the stipulation process. The Board also raised questions about other enforcement processes, especially the role of a Board member as a case advisor. Ms. Hoeft reported that the presentation about efficiencies in the divisions of Board Services and Enforcement scheduled to be given to the Board in May most likely will address the Board's questions.

**ADJOURNMENT**

**MOTION:** Richard Hinsmann moved, seconded by Peter Sveum, to adjourn the meeting at 12:10 p.m. Motion carried unanimously.